

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1303 of 2007

BHANWAR SINGH SHAKTAWAT
V/S
STATE & ORS.

Mr. M MRIDUL, for the appellant / petitioner

Mr. MS SINGHVI, for the respondent
Mrs. RR KANWAR, AGA

Date of Order : 3.5.2007

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the parties for long time.

The petitioner seeks a declaration that the No Confidence Motion to have been carried out against the respondent Pyari Bai, for removal of the respondent Kalu Ram from the office of Minister or in the alternative, to appropriately punish him, and some other reliefs.

The thrust of the writ petition is that No Confidence Motion was tabled on 12th of February 2007, for which a meeting was ordered to be convened. Vide Annex.4 notice was issued fixing the meeting on 22nd February 2007 at 11.00 A.M. According to the petitioner, in the meanwhile, at the nick of time, orders Annex.7, 8 and 9 were issued on 21st of February 2007 declaring the petitioner and two other persons Kamla Devi and Mangi Lal to be disqualified, and declaring the post to have become

vacant, and then on 22nd of February 2007 itself, the orders Annex.10 and 11 were passed reinstating Kamla Devi and Mangi Lal. However, in case of the petitioner, notice Annex.13 was issued calling him upon to make his representation by appearing on 17.4.2007.

The argument made is that the whole action was an contrivance resorted to, to ensure that the No Confidence Motion fails, and for that purpose at the nick of time, the three persons were disqualified, and unseated, and then the No Confidence Motion has been found to have failed, as out of 15 members, 14 were taken to be qualified, and for carrying the No Confidence Motion, 11 votes were required, while only 9 persons had supported the No Confidence Motion. This figure of 14 was considered treating Kamla Devi and Mangi Lal to be the members. According to the learned counsel, these orders passed suddenly on 21.2.2007 disqualifying the three members, and making the seats vacant, is a malafide action, and therefore, it cannot be said, that the No Confidence Motion failed, rather it can be said to have been carried.

In my view, I need not go into the long drawn arguments advanced on either side, inasmuch as, admittedly, the notice Annex. 4 was issued fixing a meeting on 22nd February 2007, and this notice was issued on 12th of February 2007. It is not the pleading of the petitioner, that the petitioner or the other two members were served with the orders Annex.7, 8 and 9, which was passed on

21.2.2007, and further it is not the case of the petitioner that the petitioner or the other two members did not or could not attend the meeting scheduled on 22.2.2007 on account of the orders Annex.7, 8 and 9. That being the position, there was nothing, which prevented at least Mangi Lal and Kamla Devi from appearing in the meeting on 22.2.2007, and to have voted in supported of No Confidence Motion. It is writ large that if those persons had attended the meeting on 22.2.2007, the orders Annex.10 and 11 were very much there, and they could not be prevented from voting in favour of No Confidence Motion, and if that would have been the situation, if these two persons supported the No Confidence Motion, the motion would have been supported by 11 votes and would have been carried.

In that view of the matter, in absence of any averment, to the effect that the orders Annex.7, 8 and 9 were served before the meeting, so also in absence of the averment that Kamla Devi and Mangi Lal could not attend the meeting only on account of the orders Annex.7 and 8, all other contention raised become only academic, and need not be gone into.

The writ petition thus, has no force and is dismissed summarily.

(N P GUPTA), J.

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